

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5206 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

SURAT MUNICIPAL CORPORATION

Versus

ARVIND SHANTILAL SONI

Appearance:

1. Special Civil Application No. 5206 of 1994
MR PRASHANT G DESAI for Petitioner No. 1
MR RD DHOLAKIA for Respondent No. 1
MR MANISH R RAVAL for Respondent No. 1
MR AP BHATT, AGP, for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA

Date of decision: 18/08/2004

ORAL JUDGEMENT

1. The petitioner - Surat Municipal Corporation has filed this petition under Article 227 of the Constitution and challenged the impugned Judgment and Award dated 21.9.1993, passed by the learned Industrial Tribunal, Surat, allowing the Reference (IT) No.53/88 in favour of

the respondent - workman whereby the learned Tribunal quashed and set aside the impugned order of penalty passed by the petitioner - Corporation against the respondent - workman of stoppage of 5 increments with future effect.

2. Learned Counsel Shri P.G.Desai for the petitioner vehemently submitted that after due inquiry the Corporation imposed penalty against the respondent workman for a serious charge of corruption, therefore, learned Tribunal ought not to have interfered with the same and quashed and set aside the order of penalty, by its impugned Judgment and Award. However, from the Judgment of the learned Tribunal it clearly appears that the Inquiry Officer, without assessing or appreciating the evidence of the witnesses straightway came to the conclusion that the charge levelled against the delinquent was proved. The learned Tribunal has also found that before initiating inquiry against the delinquent he was not provided full opportunity to defend himself in the inquiry, therefore, it was vitiated. When the learned Tribunal has come to the conclusion that the inquiry was held in violation of principle of natural justice then, in my opinion, the learned Tribunal was absolutely justified in quashing and setting aside the impugned order of penalty passed against the petitioner. Such order passed by the Tribunal cannot be interfered by this Court in its limited jurisdiction under Article 227 of the Constitution.

3. Before parting, it must be stated that while admitting this petition on 24.8.2004 the learned Single Judge refused interim relief in favour of the petitioner, therefore, the impugned Judgment and Award passed by the learned Tribunal is already implemented.

In view of the above discussion this petition fails and is hereby dismissed. Rule discharged. No order as to costs.

Date : August 18, 2004 (B.J.Shethna, J.)

sas